

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FELIX L. SORKIN,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. H-06-1318
	§	
DAYTON SUPERIOR CORPORATION,	§	
<i>et al.</i> ,	§	
	§	
Defendants.	§	

MEMORANDUM AND ORDER

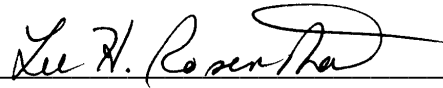
Felix Sorkin sued Dayton Superior Corporation and South Coast Steel Service, Inc., alleging that the defendants manufactured and sold a “construction chair” that infringed U.S. Patent No. 5,791,095. Sorkin also alleged breach of a settlement agreement with Dayton’s predecessor-in-interest. (Docket Entry No. 1). This court granted South Coast’s motion to dismiss on July 28, 2006. (Docket Entry No. 18).

On August 1, 2006, before a scheduling order was entered, Sorkin moved for leave to file an amended complaint. (Docket Entry No. 19). The amended complaint adds allegations and attachments relating to additional products that Dayton is allegedly offering for sale, infringing the patent and breaching the settlement agreement. (Docket Entry No. 19, Ex. A). Dayton Superior did not respond to the motion for leave to amend.

Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend pleadings “shall be freely given when justice requires,” FED. R. CIV. P. 15(a), and ‘evinces

a bias in favor of granting leave to amend.’” *Martin’s Herend Imports v. Diamond & Gem Trading*, 195 F.3d 765, 770 (5th Cir. 1999) (quoting *Dussouy v. Gulf Coast Inv. Corp.*, 660 F.2d 594, 597 (5th Cir. 1981)). Sorkin’s motion for leave to file the amended complaint submitted on August 1, 2006 is granted. (Docket Entry No. 19).

SIGNED on January 26, 2007, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", is positioned above a horizontal line. The signature is fluid and cursive, with a large, sweeping flourish at the end.

Lee H. Rosenthal
United States District